

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)
)
)
v.) NO. 3:07-cr-00159
) JUDGE CRENSHAW
JAMES McWHORTER)

DEFENDANT'S RESPONSE TO MOTION TO RE-OPEN CASE

Undersigned counsel files this statement regarding the defendant's response to the government's motion to re-open his case to turn over assets for restitution, which is due today.

Mr. McWhorter is in prison and has communicated by email with undersigned counsel about this matter. He has stated that he has already mailed a *pro se* response to the government's motion to re-open, in which he partially opposes the relief sought. Apparently, that response has not yet been received by the Court, although the prison mail-box rule would render it timely filed. *See Houston v. Lack*, 487 U.S. 266, 276 (1988). Undersigned counsel is uncertain whether Mr. McWhorter wants counsel to represent him or if instead he wants to rely on the response he has already mailed. Upon hearing from Mr. McWhorter on that matter, counsel will either file a response on his behalf or notify the Court that Mr. McWhorter wants to rely on his *pro se* pleading.

Respectfully submitted,

s/ Michael C. Holley

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CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2017, I electronically filed the foregoing Defendant's Response to Motion to Re-open Case with the U.S. District Court Clerk by using the CM/ECF system, which will send a Notice of Electronic Filing to the following Debra Phillips, Assistant United States Attorney, 110 Ninth Avenue South, Suite A961, Nashville, TN 37203.

s/ Michael C. Holley

MICHAEL C. HOLLEY